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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,966	07/23/2001	Kyle Glenn Cross	STA 0301 PUS	2911

22045 7590 06/04/2003

BROOKS & KUSHMAN
1000 TOWN CENTER 22ND FL
SOUTHFIELD, MI 48075

EXAMINER

SHEWAREGED, BETELHEM

ART UNIT	PAPER NUMBER
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1774

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DATE MAILED: 06/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/910,966

Applicant(s)

CROSS, KYLE GLENN

Examiner

Betelhem Shewareged

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-33 is/are pending in the application.
- 4a) Of the above claim(s) 16-23 and 29-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's response filed on 03/12/2003 has been fully considered. The 35 U.S.C. 112 rejection, and the 35 U.S.C. 102(b) rejection as being anticipated by D'Oliveira (GB 2 189 436 A) have been withdrawn in view of applicant's amendment and comments.
2. Claims 24 and 27 are amended, and claims 16-33 are pending. (NOTE: Non-elected claims 16-23 and 29-33 are still withdrawn from consideration.

Election/Restrictions

3. Applicant's election with traverse of Group II claims 24-28 in Paper No. 6 is acknowledged. The traversal is on the ground(s) that all claims are linked through a linking claim 16, and "the rationale *vis á vis* restriction is incorrect. This is not found persuasive because the examiner did not indicate either claim 16 or any of the claims in Group I as a linking claim. Furthermore, the examiner gave two reasons to show the inventions in Group I and Group II are distinct. The reasons are: 1) the process for using the product as claimed can be practiced with another **materially different product** (the materially different product in this case is the substrate having a fusible polymer), and 2) the product as claimed can be used in a materially different process of using that product such as transfer onto ceramic, metal or glass article.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

4. Claims 24-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Kronzer (US 4,863,781).

Kronzer discloses a melt transfer web comprising a substrate; a release layer and a vinyl ink in the order thereof (col. 4, line 11). The substrate is equivalent to the claimed planar substrate. The release layer is equivalent to the claimed release coating, and the vinyl ink equivalent to the claimed polymer ink i.e. the vinyl ink. The substrate can be a paper web or a plastic film (col. 4, line 23). The release layer can be made of polyethylene (col. 5, line 35). The ink is transferred onto a fabric or other surface under heat and pressure (col. 1, line 15). The process by which the polymer ink is printed is not dispositive of the issue of the patentability of the instant article claims.

Response to Argument

5. Applicant's argument is based on that Kronzer requires a fusible conformable polymer layer. This argument has not been found persuasive because applicant argument is directed to an embodiment, which was not disclosed by the examiner. The examiner would like to direct applicant's attention to Fig. 1 and col. 5, lines 16-52. Kronzer uses a release layer to facilitate the release of the vinyl ink (col. 5, line 33). Furthermore, applicant's argument is directed to a process and/or apparatus limitation. Since the invention in Group II is directed to product, the examiner neither examined nor gave weight to the process of transferring the transfer product (non-elected invention) or

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the apparatus used to transfer the transfer product. However, the applicant is advised to provide factual evidence showing that the claimed process of transferring a transfer product would provide a novel transfer product.

For the above reasons claims 24-28 stand rejected.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Betelhem Shewareged whose telephone number is 703-305-0389. The examiner can normally be reached on Mon.-Thur. 7:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia H Kelly can be reached on 703-308-0449. The fax phone numbers

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for the organization where this application or proceeding is assigned are 703-305-5408 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

BS *BS*
May 31, 2003.

CYNTHIA H. KELLY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

A handwritten signature in cursive script, appearing to read "Cynthia H. Kelly".